

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, October 12, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Dick Esseks, Gerry Krieser, Roger Larson, Melinda Pearson, Lynn Sunderman, Mary Strand and Tommy Taylor; Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Greg Czaplewski, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held September 28, 2005. Motion for approval made by Strand, seconded by Carroll and carried 9-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Sunderman, Strand and Taylor voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 04085; USE PERMIT NO. 04008; SPECIAL PERMIT NO. 1558B; COUNTY SPECIAL PERMIT NO. 05047; COUNTY FINAL PLAT NO. 05094, WYNDAM PLACE 2ND ADDITION; COUNTY FINAL PLAT NO. 05095, WHITETAIL RIDGE ADDITION; COUNTY FINAL PLAT NO. 05096, NATURE MEADOWS ADDITION; COUNTY FINAL PLAT NO. 05097, FOUR STONES ADDITION, and COUNTY MISCELLANEOUS NO. 05024.**

Ex Parte Communications: None.

Item No. 1.1a, Change of Zone No. 04085; Item No. 1.1b, Use Permit No. 04008; Item No. 1.3, County Special Permit No. 05047; and Item No. 1.7, County Final Plat No. 05097 were removed from the Consent Agenda and scheduled for separate public hearing.

Larson moved to approve the remaining Consent Agenda, seconded by Strand and carried 9-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 1558B, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

Strand then made a motion to rearrange the agenda moving the continued public hearing items forward to this point in the meeting, seconded by Carroll. There are requests for deferral by the applicants on all of the continued public hearing items. The purpose of rearranging the agenda is so that anyone wishing to speak does not have to sit through all of the other hearings.

Motion to rearrange the agenda carried 9-0: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson voting 'yes'.

CHANGE OF ZONE NO. 05042
FROM O-3 OFFICE PARK TO
B-2 PLANNED NEIGHBORHOOD BUSINESS
and
USE PERMIT NO. 89C
FOR RETAIL AND OFFICE DEVELOPMENT
ON PROPERTY GENERALLY LOCATED
AT SOUTH 14TH STREET AND PINE LAKE ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 12, 2005

Members present: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson.

Staff recommendation: Denial.

Ex Parte Communications: None.

The Clerk announced that the applicant has made written request for an additional four-week deferral until November 9, 2005.

Strand moved to delay four weeks, with continued hearing and action scheduled on November 9, 2005, seconded by Pearson and carried 9-0: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson voting 'yes'.

There was no public testimony.

MISCELLANEOUS NO. 05017 (424 N. CODDINGTON AVENUE)

MISCELLANEOUS NO. 05018 (1661 TIMBER RIDGE ROAD)

MISCELLANEOUS NO. 05019 (5516 HUNTS DRIVE)

MISCELLANEOUS NO. 05020 (416 N. CODDINGTON AVENUE)

REQUESTS FOR "REASONABLE ACCOMMODATION".

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 12, 2005

Members present: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson.

Staff recommendation: Conditional approval of Miscellaneous No. 05017 and 05020, and approval of Miscellaneous No. 05018 and 05019.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested an additional two-week deferral until October 26, 2005.

Carroll moved to delay two weeks, with continued hearing and action scheduled on October 26, 2005, seconded by Strand.

Pearson inquired as to the total number of deferrals now on these application. Rick Peo of the City Law Department stated that this is the third request for deferral. Part of the reason for deferral has to do with some negotiations between the city and the applicant with respect to a pending lawsuit on another property. They were trying to determine whether there are any options to amend the code to eliminate the need for these requests and Peo advised that they have reached an impasse.

Motion to defer until October 26, 2005, carried 9-0: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson voting 'yes'.

There was no public testimony.

COUNTY SPECIAL PERMIT NO. 05047
TO ALLOW A PRIVATE CABIN USED FOR
RECREATIONAL ACTIVITIES ON PROPERTY
GENERALLY LOCATED AT
S.W. 84TH STREET AND KOLBROOK ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda for further discussion

Proponents

1. Brian Carstens appeared on behalf of the applicant, **Dr. David Sumani**. This property was the subject of some controversy a few months ago. Dr. Sumani has placed a cabin on this property for his use and the use of his sons on the weekends. Carstens showed photographs of the cabin which has been constructed. He assured that it is not being used as an office. The County Zoning Resolution allows a cabin as long as it is not a permanent residence and as long as it is not used on a continuous basis.

There was no testimony in opposition.

Staff questions

Carroll noted that one of the conditions only allows the cabin to be used three days a week, and wondered how that would be monitored. Mike DeKalb of Planning staff advised that this would not be monitored but handled on a complaint basis, whereby Building & Safety would make an inspection if there is a complaint and turn it over to County Attorney if found to be in violation. DeKalb also confirmed that three days per week is not a code requirement. This condition was based on the information supplied by the applicant.

Pearson wondered whether there would have been a requirement to get a building permit. DeKalb advised that if the structure qualifies under this provision for a cabin by special permit, it does not require a building permit much the same if the county approved a mobile home court. In this particular case, the applicant could have built a conventional house, or met state manufactured housing requirements. This did not meet any of those. According to the information provided, they are currently using a satellite facility and intend to install a permanent septic system under the county code.

Pearson inquired whether this special permit has come before the Planning Commission because the cabin is already built. If they had gone through the proper channels, wouldn't they have been advised to get a permit? DeKalb concurred that had the applicant come in ahead of time, they would have known. Dr. Sumani did install the cabin and it was brought to his attention that it would not pass any codes at the time he applied for a building permit. This is the only provision to accommodate what was already there.

ACTION BY PLANNING COMMISSION:

October 12, 2005

Strand moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 8-1: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand and Carlson voting 'yes'; Pearson voting 'no'. This is a recommendation to the Lancaster County Board.

COUNTY FINAL PLAT NO. 05097,
FOUR STONES ADDITION,
ON PROPERTY GENERALLY LOCATED
IN THE MILE SECTION FOUNDED BY
S.W. 14TH STREET TO S.W. 29TH STREET AND
W. STAGECOACH ROAD TO W. PANAMA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Larson, Carroll, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson; Esseks declared a conflict of interest.

Staff recommendation: Conditional approval.

Ex Parte Communications: Esseks declared a conflict of interest and left the room during the hearing because he served on the County Ecological Advisory Committee which discussed this development and made a recommendation to the County Board.

This application was removed from the Consent Agenda for further discussion

Additional information submitted for the record: Mike DeKalb of Planning staff submitted an e-mail from Deb Kramer in opposition with concerns about traffic and dust.

Proponents

1. **Kent Seacrest** appeared on behalf of the applicants, along with Brian Carstens. He explained that this is a straight forward final plat. The preliminary plat and CUP were in front of the Commission back in May, and the Commission voted 7-1 to recommend approval, with several neighbors in opposition. There were several acreage owners that expressed concern about more acreages. This final plat, however, is in full compliance with the preliminary plat which the Commission had recommended be approved.

Mike DeKalb of Planning staff concurred that this final plat is in full compliance with the preliminary plat and CUP.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

October 12, 2005

Larson moved to approve the staff recommendation of conditional approval, seconded by Strand and carried 9-0: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson voting 'yes'. This is a recommendation to the Lancaster County Board.

CHANGE OF ZONE NO. 04085
FROM R-2 RESIDENTIAL TO R-T RESIDENTIAL TRANSITION
and USE PERMIT NO. 04008
FOR OFFICE/MEDICAL BUILDING
ON PROPERTY GENERALLY LOCATED
AT S.W. 17TH STREET AND WEST "A" STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson.

Staff recommendation: Approval of the change of zone and conditional approval of the use permit.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of Randy Cecrle and had separate public hearing.

Proponents

1. **Brian Carstens** appeared on behalf of the applicant, **Larry Geiger of Geico Development**, and presented the proposal to develop the one-acre outlot located immediately east of the shopping center at S.W. 17th and West A Street. They have been working with staff for several months. They had originally submitted a plan for two R-T (residential transition) buildings and, after working with staff, have decreased the proposal to one building due to some stormwater concerns. Carstens agreed with all conditions of approval set forth in the staff report.

Support

1. **Randy Cecrle**, who lives in the property just to the east of the proposed development, testified. He has taken the time to talk to the applicant, and the Planning and Public Works

staff, to discuss the issues set forth in the Public Works comments dated September 28, 2005. In general, as the property owner next to the site, he stated that he is not opposed to the development, and sees it as some level of resolution to managing the water issues.

With regard to the temporary turn lanes discussed in paragraph #1 of the Public Works comments, Cecerle pointed out that the potential for one of the turning lanes will be in front of his house. He advised that there are some other problems with that street, including considerable vibrations in his house, but he believes they have more to do with the new storm sewer that has been installed.

Paragraph #3 of the Public Works comments discusses some elevation problems that were in the original design. Cecerle understands that the applicant has taken some steps to correct some of the errors, so he is now comfortable that the water issues are being addressed with this proposal. There is little margin of error because of the vast amount of water that comes down from South Street, so water management in this proposal is an important issue.

Cecerle also believes that the grade elevation discussed in paragraph #4 of the Public Works comments is addressing the water issues.

The only other concern expressed by Cecerle is whether the detention area is satisfactory to hold the water.

Cecerle requested that he be informed of any future changes, such as lighting, water flow, etc., in advance of any kind of approval because he has a very strong vested interest in the property.

Cecerle advised that the only outstanding issue in the area is the drainage off of West Washington Street that drains into this area. He believes there are some feelings among the owners of the property out there that that drainage is not adequate.

There was no testimony in opposition.

Response by the Applicant

Carstens explained that they have put the left turn lane heading west on A Street and there appears to be sufficient right-of-way; however, they may have to rebuild the Cecerle driveway approach.

Carstens acknowledged that they did have an error related to the contours which has been resolved. He also acknowledged that there is one drainage issue to the west of the building which they will address.

As far as drainage from the southwest corner, Carstens stated that this development is not impeding any drainage. There may be some issues on the street ½ block south of this, which is beyond this owner's property.

CHANGE OF ZONE NO. 04085

ACTION BY PLANNING COMMISSION:

October 12, 2005

Strand moved approval, seconded by Carroll and carried 9-0: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson voting 'yes'. This is a recommendation to the City Council.

USE PERMIT NO. 04008

ACTION BY PLANNING COMMISSION:

October 12, 2005

Carroll moved approval, with conditions, as set forth in the staff report, seconded by Strand and carried 9-0: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

CHANGE OF ZONE NO. 05067

FROM R-6 RESIDENTIAL DISTRICT

TO B-4 LINCOLN CENTER BUSINESS DISTRICT,

ON PROPERTY LOCATED AT 2100 K STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson.

Staff recommendation: Conditional approval, subject to a conditional zoning agreement to the satisfaction of the Planning and Public Works Departments.

Ex Parte Communications: Strand, Larson, Taylor, Sunderman, Krieser and Esseks had all had a conversation with Mark Hunzeker.

Proponents

1. Mark Hunzeker appeared on behalf of **Whitehead Oil Company**. This is an application to rezone the site bounded by 21st and K and L Streets, which is known as the Alltel parking lot. Whitehead Oil has been seeking a site in Downtown Lincoln for several months, at least as long as the redevelopment of the block of its current 17th and Q site has been actively discussed. While that immediate project may have been deferred, there will likely be a project to redevelop that site and Whitehead Oil wants to be cooperative in relocating in the event that occurs. The Alltel site became available.

Hunzeker advised that he had contact with Marvin Krout, Director of Planning, and Marc Wullschleger, Director of Urban Development, prior to the time the agreement between Whitehead Oil and Alltel became final, to discuss the idea of placing this use on this site and to determine their thoughts on the matter. Over the last six weeks, the applicant has had a number of discussions with staff, some of which had to do with whether this was an

appropriate site for this use. The conclusion was that yes, these are uses which need to be accommodated in the downtown, but when you look at the Downtown Master Plan and the Antelope Valley Redevelopment Plan, there is no place designated anywhere for a convenience store type use. It is a use that is presumed to be able to be located in some of the appropriate zoning districts but there is no planning that has been done for such locations. In discussions with staff, it was concluded that this is a good site for this use. If it is likely that these uses will be in the Downtown area, they determined that it is probably better to have them at the entry and exit points than to have them in the middle of Downtown.

Hunzeker went on to state that once they concluded that the use was appropriate, the main discussion centered around how to make it fit and look like it belongs there. The applicant and staff have dealt with physical appearance, landscaping, uses, signage and traffic. Hunzeker displayed a rendering of the proposed facility. It will be red brick with gables over the entries.

With respect to access, the applicant has agreed to build a median in 21st Street that would prevent left-turn access into the site, thus there will be a right-in/right-out on 21st Street. With respect to L Street, the applicant will need to build a left turn lane so that existing traffic in the left lane can continue and either turn left on 21st or proceed on west on L Street. That will be a left-in only.

With regard to K Street, Hunzeker advised that the plan is to bring the curb out to block straight-through traffic in the left turn only lane, make "this" (referring to the map) a left turn out only, and extending a median down K Street either beyond what would be the extension of vacated 22nd Street in order to prevent traffic from cutting across, or to take "this lane" and loop it back into the site so that you come out at a right angle to K Street and could proceed south on 22nd Street or go left on K Street. Public Works is okay with either alternative. This has not yet been engineered so Hunzeker could not confirm which alternative would be used.

Hunzeker then requested that the change of zone request be amended to B-3 as opposed to B-4. There is a difference in the setback requirements east of 17th Street in the B-4 District. B-3 would make the proposed site plan work. He believes that the staff would recommend approval of B-3.

Larson inquired whether there will be a traffic light at 22nd and K Streets. Hunzeker pointed out that 22nd Street on the north side of K Street is vacated and the city still owns that right-of-way. The applicant would like to acquire the vacated 22nd Street right-of-way to incorporate into this site, but it is unknown whether that is going to be possible at this time. Larson believes it would be wise to make that access left turn only. If they do the loop that brings you in at a 90 degree angle, Hunzeker does not know whether Public Works will want that left-turn only because of the gaps in the light. That would be up to the traffic engineer. Larson is concerned about the high school traffic – there should not be cross-traffic without a light. Hunzeker suggested that the light at 21st Street will create substantial gaps.

Sunderman inquired whether the loop that will hit K Street at a right-angle will be one-way out only. Hunzeker confirmed that it would be one way out 20th Street.

Pearson commented, "Let's face it. A lot of students from Lincoln High are going to be crossing K Street on foot to get to this convenience store." She does not see the high school students walking over to 21st and crossing at the light to get into the front door. Hunzeker noted that the front door is going to be on the west side. There will be sidewalk in K Street up to the existing sidewalk at 22nd Street. There will be sidewalk in 21st Street and in L Street up to the point where you can get across to the sidewalk in front of the building. Hunzeker acknowledged, however, that they will have to cross K Street to get there, just like they have to cross Capitol Parkway to get to the parking lots now. Pearson believes it is pretty obvious that this business is targeting high school students and we hope that they don't get in their cars and drive across K Street to go to McDonald's. We hope that they walk. Hunzeker agreed, pointing that to be part of the reason for the design of the access on K Street being an exit only and an eastbound exit only. We do not want to have traffic coming out "of here" (pointing to the map) and being able to cross traffic to get over to the 22nd Street entrance into the Lincoln High parking lot. That is why we have discussed these alternatives. Hunzeker acknowledged that no agreement with transportation has been executed, but the drawing being shown is based on the discussions that they have had. If they do the straight-through version rather than looping back into the site to the north, the median would be extended past the 22nd Street entrance.

Pearson reiterated that she is talking about pedestrians. Someone would have to cross K Street and walk up a sidewalk along 21st Street to get to McDonald's, as well as a sidewalk on K Street and on L Street. Pearson strongly recommended that the site plan be reviewed because a lot of the students will be walking and they are not very patient and we need to be especially careful and put some real thought to the students who are going to be walking there. Can we do a site plan that will enable them to get there without jeopardizing their lives and those that are driving? What is the speed limit on K Street? Hunzeker believes that it is 35 mph at that location. Hunzeker acknowledged that this safety issue came up very early in the discussion with staff, and he thinks the conclusion was that the existence of the traffic signal at 21st Street provided one safe crossing (if they will use it), and it does create a very substantial break in traffic on K Street that will enable people to cross if they don't use the signalized crossing.

Pearson further noted that they can't get to the front door without walking across driveways and the gas station complex. Hunzeker believes that is true in most gas stations and convenience stores, and does not believe it will be a big problem here because they have plenty of stacking. Pearson disagreed, pointing out that if they cross in 22nd Street they will be indeed crossing the stacking lane to get to the front door.

Esseks requested to discuss the scenic issues. What do we have at the east end of the property just before K Street and L Street meet— just east of the site plan area? Hunzeker stated that they are trees. There are trees in the triangular area to the east of the site. In the event that the applicant is able to purchase that right-of-way, anything that is there will either

be moved or replaced on the remainder of the area so that the view coming in from the east is green space and landscaped. Esseks believes that to be a very important entryway from the east and if we are going to have a really attractive Downtown, a site like that should be particularly scenic, respecting the major values of the Downtown area. He is not sure a convenience store/gas station will achieve that purpose.

Esseks inquired as to the proximity of the "river walk" in Antelope Valley. Hunzeker did not have an answer. He understood, however, that that area was going to be further to the north. Esseks believes that the commercial facility will be rather visible to the river walk area as well, which is more reason for it to look particularly nice. Hunzeker stated that they have spent a lot of time on the visual aspects of the site plan as well as the building, and the applicant fully expects that the agreement will tie it down tightly as to the appearance of the building, as well as to landscaping of the site and how all of the drive-thru areas are screened. The start of the site plan was orienting the building toward 21st Street so that the canopy and the lighted area would not be on the east side of the building, and we did not want to have the back side of the building up against 21st Street.

Esseks thinks it is such a visually significant area that we probably have the wrong land use for it. He likes the combination of uses on one property, but it is too conspicuous and too important an area for that type of land use. He also agreed with the pedestrian traffic problems expressed by Pearson.

Carroll noted that this site is right on the edge of the Antelope Valley Redevelopment Area, and he recalled that the zoning concepts for Antelope Valley asked for the buildings to be on the edge with parking in the middle. Was there a thought to that design here, i.e. hiding the gas pumps on the interior? Carroll has seen in other cities a dual use gas station/fast food, where the building is on the edge of the property with the pumps and parking on the inside so that it is hidden from the street. Hunzeker suggested that to be part of the reason for the orientation of the building. The building is oriented so as to obscure the bulk of the parking and pumps. Carroll sees parking on both east and west ends. Why can't you hide the parking and pumps completely? Hunzeker noted that the parking on the east end of the site plan is really conceptual because the applicant does not know whether he will be in control of that property. They would like to own it and use it for employee parking, but that is conceptual at this point. Hunzeker assured that the screening of that parking will definitely be dealt with very, very carefully to have the wooded area in the median be the primary focus of what you see when you come in on Capitol Parkway. The building will block the view of the pump islands as you are coming in on L Street. We cannot push the building much further to the east because of a need to get around it with driveways and still stay out of the right-of-way.

In response to further inquiry from Pearson, Hunzeker again confirmed that the site plan shows the parking all the way to the east, which is outside the area of application. That area is within the vacated 22nd Street right-of-way and the applicant does not control that property. This site plan has been put together over a period of time in response to concerns that have been raised. The issue relative to that parking is one of whether we will be able to acquire that piece of right-of-way. The applicant is interested in using it for some employee parking. If the

applicant cannot acquire the right-of-way, it will not be used for a parking lot. The right-of-way vacation will be a separate application that comes before the Planning Commission. The concept being shown today is not going to be the final one because we don't know where the line will ultimately be based on the vacation of that right-of-way. If the applicant cannot acquire that right-of-way, there will need to be adjustments made to the site plan.

2. Brad Hedrick, Vice President of Operations for **Alltel**, 401 S. 21st Street, testified in support. Alltel is interested in this use. Alltel has been using this parking lot for 26+ years and they no longer have need for the use as a parking lot. Alltel can meet all of their parking needs with the rest of their existing lots on the south and west part of their other property. Alltel believes this is a good use of the property and will also help in Alltel's operations.

Opposition

1. Cecil Steward testified in opposition with the following comments:

- He believes this application sets a precedent.

- This is a proposal that is neither in compliance with the recently approved Downtown Master Plan nor the Antelope Valley Redevelopment Plan. As co-chair of the Downtown Action Team given responsibility for oversight of the Downtown Master Plan, he is extremely disappointed in the Planning Department's recommendation for approval. The ink is not even dry on the Downtown Master Plan and here we have the first situation of recommending to not comply with the Plan. As a result of this, he will be requesting an official protocol for communication between the Planning Department and the Downtown Action Team.

- This change should not be approved because it is not in compliance with something that the Planning Commission unanimously approved just a couple of weeks ago.

- There are predictable unintended consequences from this proposal, including traffic conditions on two of the high speed curves in the Downtown area. One curve is where most people begin accelerating in Capitol Parkway, and the other is that they are still accelerated as they pass this site and do not decelerate until a couple blocks away. If you get pedestrians and high speed traffic you are going to have unintended consequences.

- There will be signage on both of these one-way streets. It seems unrealistic to put an auto-convenience store working off of one-way streets, especially where you are likely to create more congestion.

- There will most likely be a liquor application. It will become a gathering place for high school students, all of which has the potential to lead to other unintended consequences.

–It destroys a wonderful gateway opportunity for the future of Downtown. With the potential of the Lincoln Poultry property, the proximity and the opportunity for residential office mixed use and other non-auto circumstances are tremendous.

--The applicant says that there is no convenience store in the plan, but there is a very good reason for that. Both of these plans are based upon a higher level of pedestrian environment, mixed use, more residential environment, more people walking, fewer people driving in and around downtown. He is not against U-Stops and he drives to the one on West O Street specifically because it is easy to get in and out. There is no conflict with pedestrians at that location. This is not the place to mix the automobile and pedestrians. Downtown and Antelope Valley are changing from an auto oriented to mixed use and pedestrian environment.

–This is a dangerous precedent. The Planning Commission now has something that might be referred to as a conditional zoning approval, where the planning and design has been brought forward at the same time as the change of zone. This might work okay if we had the design guidelines intended for Downtown, but we don't have those in place yet. Without having that, it seems that the Commission is being asked to do something that they have not been asked before.

Steward suggested that if we really want to promote an innovative, useful and sustainable use of this entryway property, we might think in terms of mixed use that would include a multi-modal transfer station. This would be an ideal place for people who wish to bike into Downtown to have facilities for parking the bike, changing, showering and pick up a shuttle bus. If we think creatively, and we need to because we have a definitive planning process in front of us, this is not the solution for the best and highest use of that property. Steward urged the Commission to deny this application.

Esseks inquired whether the Downtown Action Team is in the process of developing those design guidelines. Steward responded that there are guidelines that have been proposed by the consultants and the committee is in the process of promoting adoption of those guidelines.

Staff questions

Strand asked staff to respond to Steward's testimony regarding the Downtown Master Plan and the Antelope Valley Redevelopment Plan, knowing that this applicant is a business asking to relocate due to blight declaration. Marvin Krout, Director of Planning, explained that one of the areas of interest to the staff was how to take the areas closer to the core of Downtown and make it easier for redevelopment to occur. Even though the previous proposal for a hotel did not work, we know that eventually something different will happen to that site. Krout then stressed that the Downtown Master Plan is conceptual, and it was stressed that any indication

of a land use for a particular block was something that needed to be reviewed on a case-by-case basis. It was always contemplated that the Planning Commission would be faced with individual decisions like this, and the private market is not going to act exactly as the plan predicts.

Krout also pointed out that the Downtown design guidelines that have been drafted are intended to stop more or less at 17th Street, so those guidelines would not be affected by the development of this property. The Antelope Valley plan has separate guidelines prepared by a consultant and the staff has been working to whittle those down and to develop a set of guidelines that could be used separately in the Antelope Valley area, realizing that it is different from Downtown. There will be much less context and continuity in the Antelope Valley area than in the Downtown area.

Krout acknowledged that this is not the first use that the staff would have chosen for this site, but the staff does not get to do that. The staff takes in the applications, reviews them and gives their best advice. Krout believes that the Downtown plan and the Antelope Valley plan both fail to show that, no matter how high the cost of gas, there are going to be people stopping in some kind of stations to fuel up. From the standpoint of an auto-oriented use, it seems that between the two one-way streets is an area where we would not want to put residential uses; staff felt it could be oriented and screened so that the view coming up Capitol Parkway towards Downtown is not affected and the orientation of the building contributes to that.

Krout also acknowledged that the pedestrian issue was the most difficult to deal with. His vision is that there are additional improvements that need to occur to Capitol Parkway in this general area, including additional landscaping and taking down the overhead wires and poles, and that eventually the Lincoln High School parking lot area would continue to be consolidated so that eventually the access to 22nd Street on the south side of K Street could be blocked and the access would then come from 21st to that parking lot. Very nice landscaping and wrought iron fencing could be extended, which may be eligible for TIF. The thought was to create a model for a gas station and restaurant for the rest of the city, and the staff and applicant spent a lot of time working on conditions for an agreement.

Krout posed the question: Can you create a building and a use that has a street edge for pedestrians with the auto-oriented uses and canopies? Krout believes the answer is "yes", if you are not doing a drive-thru restaurant. The drive-thru means that you have an entrance somewhere and there has to be a way to get around the building to a window, so it is going to be surrounded by some kind of vehicle circulation. It is one-way traffic as opposed to two-way. A better solution would be to close the access and have the parking without pedestrians or vehicle access. However, the Planning staff did discuss this with Urban Development, which is the department responsible for redevelopment of this area, and they did not object to this use – they were only concerned with the appearance. Informal contacts were made with Lincoln Public Schools and they did not object to this use. The Planning staff did the best they could to prepare conditions that would make this work.

Krout also confirmed that this location could apply for a liquor license. He also pointed out that there is a convenience store with a liquor license on 33rd Street across from North Star High School. The Police Department was contacted and had no objection to that location.

Carroll inquired about B-3 versus B-4 zoning. Krout agreed that B-3 is more compatible because it is more like a neighborhood district.

Pearson wondered about attaching conditions of approval for a site plan being attached to a change of zone. She believes this is unusual. Krout noted that there have been a few cases in the last year or so – one was a concrete plant on Hwy 2, and another was a county case where someone needed AGR but they only wanted to do two lots on 20 acres. Another case was relocation of a convenience store on Hwy 34 from the south side to the north side because of the reconstruction of 48th Street. Philosophically, Krout does not see a big difference between attaching conditions to a change of zone and a special permit, use permit, CUP or PUD. It is just that we have not codified this idea in the zoning ordinance. If the Planning Commission thinks this is a worthwhile tool, it can be codified and placed in the ordinance. It is a good tool. Krout stated that he is generally in favor of doing development agreements just like annexation agreements.

Carlson suggested that another option would be to find a round peg. In order to fit a square peg into a round hole you need to have the tools to shape it and cram it in there. He believes we need to follow the guidelines in the established plans. If our goal is to make a strong, safer, better Downtown, how do we realize that plan vision if we do not rely on the tools that we have, i.e. the Comprehensive Plan, the Downtown Master Plan and the Antelope Valley Plan? He is concerned about being dismissive of those plans. Krout responded that those plans did not anticipate the need for these kinds of uses and, in retrospect, we maybe should have asked the question about relocating service stations that are in the Downtown in the development of those plans. If we don't provide good access, including services for Downtown, that is not to the Downtown's benefit either. For example, even though Williamson Auto is moving out to sell new cars, they will maintain a service presence in the Downtown area because they understand how important it is.

Larson asked whether there is any chance that the 22nd Street access could be closed south of K so that all of the access to the parking lot of Lincoln High School could come in on J Street. Krout did not know if it could be done today or whether it would require purchase and consolidation of the residential property. Larson suggested that if there could be a nice landscaping, including a nice fence all the way over to 21st, it would look better and force all pedestrian traffic over to 21st. Larson wondered whether that possibility has been discussed with the school. Krout indicated that it has not been discussed with the school, but that is the vision he would have. The new development and investment on this site would make a tax increment available for those kinds of improvements. Krout concurred that the lots that face K Street between 21st and 22nd are all parking lot except for the one piece.

Response by the Applicant

Hunzeker reminded the Commission that Antelope Valley is first and foremost a road – it is the son of Northeast Radial, and we are building one of the biggest roads in town as part of that project. He also suggested that it is anticipated, expected and planned to spend a lot of money to accommodate a lot of traffic in the Downtown area. He disagrees that we are turning Downtown into a pedestrian mall; however, this project is pedestrian friendly. Where else do Lincoln High School students go for lunch if they leave campus? There is no other place within walking distance. Is it better to have them crossing K Street or get in their cars and driving? It is also pedestrian friendly to the Alltel employees and any other office or other type of development that is going to occur in the general vicinity. This is quite a walk from any sort of restaurant.

Hunzeker also reiterated that the design of this project has been first and foremost on everyone's mind from day one. Urban Development and Planning have had that as a top priority. It has been agreed that this is going to be a very different kind of building for a convenience store/fast food. It is not going to be the typical building—it will be something that is compatible and attractive. It will be landscape and designed well. In fact, the applicant is hopeful to make this a redevelopment project in the Antelope Valley plan. Urban Development has its eye on capturing the incremental value that will be created by this project in order to do some of the improvements that they would like to do in this area which have very little, if anything, to do with this site.

Hunzeker does not agree that Downtown is changing from an auto-oriented to pedestrian-oriented area. We will rely on people coming to the Downtown by vehicle to use things like the Grand Theater. Remember all the emphasis placed on bringing people into the Downtown to use the restaurants and shops because if they had alternatives outside the Downtown they might not come Downtown. K Street and L Street will be 35 mph no matter what kind of use you put here. No matter how much pedestrian-oriented business you have, there is going to be traffic no matter what you do. This is a pedestrian friendly project. It will be well-designed. The fact that we have not provided for this kind of use in either the Downtown Master Plan or Antelope Valley plan means that we really need to think about where those things ought to be located. Both Planning and Urban Development staff have determined that if we are going to have these things in the Downtown area, then having them at the edges is better than having them in the middle.

Hunzeker requested that the Commission recommend approval of the change of zone to B-3, as opposed to B-4.

ACTION BY PLANNING COMMISSION:

October 12, 2005

Pearson moved denial, seconded by Esseks.

Pearson suggested that you don't have to go any further than the fact this change of zone does not conform to the Downtown Master Plan or the Antelope Valley plan to deny this application.

This is a square peg. Let's find a round peg and put it here. If we want to use TIF for this site, and if Alltel wants to sell the site so bad, then let's find the round peg. Putting a convenience store, with a potential liquor license, with a drive-thru restaurant and potential car wash is not appropriate for this site. It is not pedestrian oriented. The Lincoln High School students need the protection of the Planning Commission and the Planning Department. There is a convenience store across the street from Lincoln High School to the west; there are several gas stations within a few blocks; when you are coming in on Capitol Parkway you are going to look at the back side of a car wash, across a parking lot into the back side of a McDonald's.

Taylor stated that he will also vote to deny. He does not wish to, but we should be able to work hard to find a way to make this work. The idea of making Lincoln High safe is important. The traffic in that area really moves. Safety is a big issue. It would not make sense to put more traffic lights there. We need to make this look like a meaningful and attractive area. He agreed with Mr. Steward's testimony. If it is possible to make that area attractive and more safe, he would be more likely to support it.

Larson stated that he would love to support this but he has two concerns: the aesthetics as an entrance to the core area of our city and safety, particularly because of the location near Lincoln High School. In order to have any safety, you would have to force the kids over to 21st Street. He does not think that could be done without a wrought iron fence or something all the way around to 21st Street. He will reluctantly vote to deny.

Carroll stated that he will also vote to deny. The use might work but the site design and the aesthetics are the biggest problem. We don't have the design standards in place. He believes the site design is horrible for a lot of different reasons.

Esseks commented that one of the original and still enduring principles of zoning is to provide for the public safety.

Carlson reinforced that it is important to look to the existing plans for guidance. We should look at the Downtown Master Plan and the Antelope Valley Plan, because we have had thousands of people and thousands of volunteer hours go into these plans to create a vision. Unless we work hard to implement that vision, it will never happen.

Strand commented that she does not think R-6 zoning is appropriate for this site. B-3 is probably more appropriate but she would like to see a better site design.

Motion to deny carried 8-1: Larson, Carroll, Esseks, Krieser, Taylor, Strand, Pearson and Carlson voting 'yes'; Sunderman voting 'no'. This is a recommendation to the City Council.

*** break ***

COUNTY CHANGE OF ZONE NO. 05071
FROM AG AGRICULTURAL TO
AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT S. 162ND STREET AND YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Larson, Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. Jerry Fletcher, owner and applicant, presented the proposal for change of zone from AG to AGR at 162nd & Hwy 2. He stated that approximately 60 of the 80 acres is currently not being farmed and is not good farm ground. Fletcher submitted a proposed plot plan showing 22 lots; however, he cannot complete the plot plan until he knows what Norris is going to do on their power lines. He showed where the realignment of 148th Street for the bypass is going to take up to 10 acres of his property, so he will most likely end up with 20 lots instead of 22. The subdivision would be on blacktop roads. Bennet is planning city lots down that road. He desires to have 3-acre lots. He developed the Prairie View subdivision at 195th and Old Cheney Road and built everything according to the county specs. With 3-acre lots, he believes the development will end up being 18 to 23 lots.

Fletcher understands that the County Board has asked for a plan for the Bennet corner within six months. He has not formally submitted a site plan because he cannot come up with one until the realignment of 148th is determined.

There are ten acreages in the mile to the east. Fletcher believes that the Bennet corner is going to develop and it is best to have subdivisions around it. There are already six people interested in building in this proposed area.

Fletcher is hoping to have rural water, but he does not want to spend the \$5,000 to have it studied until he has the zoning in place.

Larson left at this point in the meeting.

Opposition

1. Doreen Jose, who owns 100 acres of farm land directly across from the applicant, testified in opposition. There are many questions that need to be answered. We do not even

know what is being planned on this 80 acres and gossip says it could be 20-50 homes. There are a lot of issues concerning the Comprehensive Plan regarding development along Hwy 2. When she protested the concrete plant, she was told there would be no development along Hwy 2 until the Comprehensive Plan, including the bypass, was in effect. Also at that hearing, the County Commissioners requested a plan for the area around the intersection, which has not been completed. She is very concerned about the water. She does not know how a change of zone can be approved without having water. The water is very poor quality and very limited. Her property is at the end of the line for rural water. She also finds it hard to believe that all of the traffic will come over into the new 148th realignment. 162nd has had many serious accidents and is going to require major improvements if the zone is changed.

Jose is also concerned about the 20-acre rule. She does not understand how the Commission can jump around and disregard this rule. Many neighbors have requested to build a home on another 20 acres and that has been denied. How can you change one and show favoritism to one party and not the other? Does the applicant plan to develop the property himself or sell to a developer? If the rezoning is approved, are you giving blanket allowance for anyone to do anything without any restrictions?

2. Jo McGurk, who lives on an 80-acre farm at the corner of Hwy 2 and 148th, testified in opposition. All of the owners in the area are extremely confused about the plan for this area. She believes it is premature to do a zoning change before all of the people within one mile know what the best plan for this area might be. She encouraged that there be more planning and more meetings to clarify what is going on with the bypass and the realignment of 148th.

Staff questions

Krieser asked for an explanation of the staff recommendation of denial. Mike DeKalb of Planning staff stated that the Comprehensive Plan designates the property as AG and not as low density residential. The next step is to look at development around the area and what else is happening – there was nothing occurring in the area to support this change of zone. There was no water information; the area is largely farm land on a gravel road; Bennet has hired a planning consultant to help them update their Comprehensive Plan, which will include this area. Nothing stacked up.

Esseks inquired when the Bennet plan will be completed. DeKalb stated that the consultant work typically takes six to twelve months. It is his understanding that the consultant has just recently been hired.

Response by the Applicant

Fletcher clarified that he will not be hooking up to the same rural water line as Doreen Jose.

ACTION BY PLANNING COMMISSION:

October 12, 2005

Carroll moved to deny, seconded by Sunderman.

Esseks agrees that this change is premature. Maybe the information will be available at the end of six to twelve months.

Motion to deny carried 8-0: Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson voting 'yes'; Larson absent. This is a recommendation to the County Board.

(Editorial Note: This application was withdrawn by the applicant on October 18, 2005, prior to being scheduled on the County Board agenda)

ANNEXATION NO. 05015

TO ANNEX APPROXIMATELY 212 ACRES,

and

CHANGE OF ZONE NO. 05068,

THE WOODLANDS AT YANKEE HILL

PLANNED UNIT DEVELOPMENT,

ON PROPERTY GENERALLY LOCATED

AT SOUTH 70TH STREET AND YANKEE HILL ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 12, 2005

Members present: Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, Pearson and Carlson; Larson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

1. Rick Krueger, President of **Krueger Development**, presented the application and submitted exhibits. He pointed out that this proposed planned unit development is in the growth boundaries of the City, generally located at Yankee Hill Road between 70th and 84th, generally the half section to the south of Yankee Hill Road. It is next to Jensen Park and complies with the Comprehensive Plan. The Comprehensive Plan specifically calls for mixed use neighborhoods and the preservation of open space, with a broad range of parks and tot lots, etc. Specifically, the community wants to promote residential development, economic development and employment opportunity throughout the city. Page F27 of Comprehensive Plan states, "The land use plan displays the generalized location of each land use. It is not intended to be used to determine the exact boundaries of each designation."

Krueger pointed out that this proposed development is being done as a Planned Unit Development, the general purpose of which is, "...to promote the public convenience and necessity; protect the health, safety and welfare, to implement the goals and policies of the Comprehensive Plan,...", but also specifically to "permit flexibility in regulation of land development; encourage innovation in land use, variety in design, layout and type of construction; and encourage the economy and efficiency in land use, natural resources, the provision of public services and utilities and the preservation of open space."

Krueger advised that he did hold a community meeting last week and there was some question about whether or not this application follows the Comprehensive Plan. In that light, Krueger advised that the major components of the proposal include residential, open space, a commercial designation on the corner of 70th & Yankee Hill Road, and a commercial designation by the water tower on 84th Street. This developer does not own some of the properties which exist as low density urban residential. The plan is showing an underlay of single family homes and the Planning Department has requested the developer to show that as a potential apartment site. The Cheney cemetery is on the corner. The trail extends from 70th Street south.

Krueger indicated that this plan strives to integrate commercial uses and neighborhood business uses with the neighborhood, which is called for in the Comprehensive Plan. Coddington Park at West A is being referred to as one of the prototypes for a neighborhood center, e.g. groceries, fuel, both dine-in and take-out food, haircuts, banking, hardware and various other accessory uses. Krueger indicated that there will probably be more office use on this site than there is at Coddington Park. Krueger also pointed out that neighborhood centers are not sited in advance of the land use plan.

The vast majority of the residential uses will be single family. There are actually three parcels that come together, one being owned by Carl Schmidt who wants an 80' wide lot. The remainder of the lots will generally be 60' wide, including townhomes and apartments, so there will be a mix of residential uses. There will be two pods of neo-traditional or new-urbanism layout, the concept being to have those green spaces enclosed, with the houses around the outside. They are not intended to be public spaces as such, being owned by the association.

With regard to parks, trails and open space, the proposal shows a public park located such that it can be added onto in the future. The development will preserve as much of the existing riparian way starting at the corner of 70th Street and continuing south as possible, with the only crossings being off of 70th Street and then another crossing further south to integrate both sides of the development. There are detention cell facilities in those green areas and riparian way, and part is in the Beal Slough Master Plan. The developer has an arborist on staff to do some replanting in those areas once the cells are built. They will be dry cells with a mix of prairie grasses and some additional trees. They are attempting to save the existing tree masses.

In terms of implementation, Krueger believes that the sanitary sewer should be to 70th and Yankee Hill Road in 2006. The developer will be working with Public Works to facilitate

installation of water mains in Yankee Hill Road. They continue to discuss improvements at 70th Street and 84th Street with Public Works and the developer is agreeing to get the south two lanes of Yankee Hill Road done for the mile from 70th Street to 84th Street. They have also had discussions with Hampton, who owns the property north of Jensen Park, to try to do Yankee Hill Road from 70th Street to 84th Street, and then from 84th it curves into the new large commercial development at about 92nd Street.

Krueger acknowledged that the annexation request includes approximately 40 acres of Jensen Park and the water tower, which are already city-owned facilities. The vast majority of sanitary sewer comes to the corner of 70th and Yankee Hill Road so they will start development with the residential components off of 70th Street and work their way up the hill. It was the Planning Department that suggested this developer take 30 acres at 70th Street designated as commercial in the first annexation.

2. Brian Carstens submitted proposed amendments to the conditions of approval:

- #1.1.3 (17) Site plans for office/commercial uses, sites for other than residential uses, and sites with other than detached single-family to be approved by administrative amendment. Commercial/office areas to be reviewed for compliance with pedestrian oriented commercial uses with the center orientated to the neighborhood, ~~completion of at least 400 multi-family units~~ building permits issued for at least 50 units of a 200 (or more) unit apartment (multi-family) project and at least 4.0 dwelling units per total acre inside the PUD, 50,000 square of office must be located on the second floor or above of a building, and inclusion of open space, such as a mini-park or plaza located within the commercial center or nearby. The developer's proposed dedication of nearly 20 acres of open space for public use fulfill this requirement for both proposed neighborhood centers. Open space must be open to the public, but may be either public or privately owned. #1.1.3 (17) we have been working with staff today on a compromise. They had been asking that the comm area not be commenced until 400 of the multi-family units were completed. Staff will now support that building permits be issued for at least 50 units....(see amendment).
- #1.1.11 Delete the requirement to show a drop-off recycling point. It is not shown in the Comprehensive Plan and it is not a requirement of the subdivision ordinance.
- #1.1.4 (3) ~~Delete:~~ Revise General Note #3 to reflect the block length waivers listed in Condition #2.

Carlson pointed out that this is a PUD and not a straight subdivision.

Opposition

1. Steve Bors, 6800 Rebel Drive, testified in opposition. He also submitted an e-mail from a neighbor also in opposition and stated that he had received a call today from another neighbor in opposition to at least parts of this plan, who was unable to attend today's meeting due to the afternoon time. Bors suggested that if an application is affecting a large number of landowners, there should be an evening meeting to accommodate more people.

–This proposal should be postponed until adequate infrastructure exists to support it.

–When he purchased his home, he did not know that any kind of commercial development would be allowed on this site. He is opposed to the commercial aspect of the development. Why is 600,000 sq. ft. of commercial space being approved when neighborhood centers are to be 50,000 to 250,000 sq. ft.? What is the real number? He does not believe there is any need for commercial space here at all, pointing to the commercial uses that exist and being developed 84th & Hwy 2.

–Why is the Greenprint challenge in the Comprehensive Plan being ignored? Wouldn't this land be better suited for a park? Why not sell Jensen Park to developers and turn this much more attractive piece of ground into a park?

–Has an environmental study been done? Wildlife will be destroyed by the development.

–This proposal ignores the Comprehensive Plan concept of "effective land use transitions". Where is the transition in this plan? What buffer areas exist in the proposal? He suggested that the transition could be eased by selling more upscale lots closer to the existing acreages.

–The road issue is being ignored. The required public infrastructure is not in place to serve this development. These streets are not ready for a development of this size. It is time to install infrastructure before development occurs.

–The nearest fire department is at 84th and South Streets. Is this prudent? Can the city afford to have this area inadequately covered?

–The proposed annexation is "sneaky". How will this area be served by law enforcement? Where will the kids go to school? The nearest elementary school is Cavett.

–The proposal is not compatible with the character of the neighborhood and adjacent uses.

–Commercial development across from existing acreages is definitely an encroachment. Why is this not addressed?

–Why are they allowed to wait until permit time to outline what screening will be built?

–This proposal does not follow the Comprehensive Plan. If the Comprehensive Plan is not going to be used, why do we waste the tax dollars to do it?

Staff questions

Esseks inquired about the fire station. Brian Will of Planning staff concurred that it is located at 84th and South Streets, and there is another at S. 48th and Clare. In addition, there is a proposed fire station to be located at approximately S. 56th just south of Campbells Nursery. Funding for that station is dependent upon a bond issue in 2006-07. Esseks inquired whether impact fees can be used to build a fire station. Will stated that fire stations are not an impact fee facility. Esseks then inquired as to the average number of emergency calls per year from new homes of this nature. He thinks we have to plan for those emergency calls. Will stated that after annexation, it would be the responsibility of the Lincoln Fire Department and Police Department to respond to these areas. The school district also has responsibility to take care of the kids that would be in this area. There is a new school site owned by LPS in Village Gardens to the northwest.

Carroll asked staff to comment about including part of Jensen Park in the annexation request in order to be contiguous. Lynn Johnson, Director of Parks and Recreation, stated that Jensen Park is 200 acres in size and the Parks Department is currently developing a master plan for a regional park with lighted ball fields, play fields, active recreational facilities, and some more passive activities. The northwest corner of that site is within the city sewer service area, the rest sewerage to the south so it will be years before that area could be sewerage. Parks recommends that only the area that could be sewerage in the immediate future be included in the annexation. Will then explained the boundaries of the annexation, this annexation being dependent upon the development of Jensen Park Estates, which will bring the city limits contiguous.

Strand inquired as to the time line for development. Will suggested that the timing is dependent on the annexation of Jensen Park Estates, the proposed development to the northeast. Sewer has to be extended across the property north of Yankee Hill Road and Jensen Park Estates has to be approved and annexed before this property could be annexed. The original submittal for Jensen Park Estates has been reviewed by staff and the applicant has not yet filed the resubmittal in response to the staff review. Will did not know when that might occur but it is expected to be in the fairly near future. Strand suggested that development of this property is probably two or more years out.

Strand commented that she served on the LPS Task Force and believes that the students in this subdivision would not go to Cavett but be bused elsewhere.

In response to the question concerning the 600,000 sq. ft. being a neighborhood center, Will explained that the staff report describes the scope of the application showing everything within the proposed phases I and II. What is actually being considered in this phase one includes the approval of only a portion of the original request. This approval is only for phase I. It is part of the overall conceptual plan, but the specific approval today is for only phase 1, that being the commercial center at the northwest corner and a portion of the residential units. This special approval permits:

- #2.modifications to the Zoning Ordinance and Land Subdivision Ordinance to allow the transfer of sewage from one drainage basin to another, to allow sanitary sewer flow opposite street grades, sidewalks in standard locations, approve landscape screening at time of building permits, lots fronting onto a public street or private roadway, front, side and rear setbacks to 0', sidewalk along the east side of South 70th Street between Yankee Hill Road and Yankee Woods Drive, block length in excess of 1,320' for Blocks 1, 2, 35, and 40, lot width to depth ratio, building height from 35' to 45' for multiple-family dwellings, lot width from 50' to 40', lot area from 6,000 to 4,000 square feet, and allows approximately 500 dwelling units and 324,000 square feet of commercial and office floor area.

Will went on to state that the Comprehensive Plan talks about anticipating a neighborhood center in a square mile being in the range of up to 300,000 sq. ft.; however, it is not shown as an individual commercial center on the land use map. It is implied that when that square mile develops, there can be up to a 300,000 square feet neighborhood center. But the Comprehensive Plan goes on to say that there is an allowance for potentially two centers if certain criteria are met. The staff reports sets out the criteria as follows:

Page F47 - Floor Area Incentive - These criteria will serve as a guide to future actions until they are formalized and included in the zoning ordinance:

- The center shall be located in a neighborhood with greater residential density, than is typical for a suburban area, and the center itself contains higher density residential uses (density above fifteen dwelling units per acre) integrated within the development. This criteria is mandatory for any center proposing to utilize the incentive.
- Provide a significant mix of uses, including office, service, retail, residential and open space — far more than typical single use centers. Multi-story buildings are encouraged.
- Integrate some light industrial or manufacturing uses within the center (does not apply to neighborhood centers).
- Provide public amenities such as recreational facilities, significant open space, plazas, public squares and other types of public facilities or meeting areas.
- Are supported by a street network with significant traffic capacity in the future, rather than on streets that already have significant commercial development.
- Provide for even greater pedestrian orientation in their layout, physical arrangement of buildings and parking buildings shall be oriented to pedestrians.
- Provide for transit opportunities in the center design.

The conditions of approval are written to require the development to meet the floor area incentive criteria in order to be granted the 324,000 sq. ft. The Comprehensive Plan is a guide and there is some latitude for some adjustment.

Will agreed with the proposed amendments to the conditions requested by the applicant.

Carlson noted that the opposition discussed the effective land use transition, and he sees they are creating transitions. What about the comment about the transition across 70th Street? Will suggested that the arterial streets create a boundary or dividing line between areas where there is commercial and residential. An arterial street creates its own buffer and its own boundary. There is an orientation of uses internally. As to the surrounding uses, there are adjacent arterial streets.

Response by the Applicant

Krueger agreed that the application was submitted showing the overall plan for 360 acres, even though the actual approval for this phase 1 is something less. He also pointed out that everything the developer does will go back to the Director of Planning for administrative amendment. This PUD process does allow for evolution of design over time. He believes this will be about a 10-year project. Over time, the PUD process provides the flexibility to make some changes. There are certain incentives in regard to additional commercial floor area that are tied to density and traffic, so this is an integrated project.

Krueger also pointed out that this proposal has a floor area ratio (FAR) of .23, and the standard is usually .25. The Planning staff has challenged the developer to put 50,000 sq. ft. on the second floor. Regarding the fire and police protection, Krueger suggested that it must be considered that this will develop over time. There is a site for a fire station at S. 56th Street and that will take a bond issue. Additional schools will have to take a bond issue. There is a proposed school site within one mile.

Krueger acknowledged that this proposal cannot proceed to City Council until the neighbors, Jensen Park Estates, comes forward, but he believes it is very eminent. He had no intention of trying to get ahead of Jensen Park Estates. This also requires an annexation agreement before going to City Council. Krueger asked the Planning Commission to approve the land uses and the concepts, and he will wait for Jensen Park Estates.

ANNEXATION NO. 05015

ACTION BY PLANNING COMMISSION:

October 12, 2005

Strand moved to approve the staff recommendation of conditional approval, seconded by Carroll.

Strand believes it sounds like a well-planned development for the next 10 years.

Pearson pointed out that the annexation is not contiguous and it's ahead of the game. We sort of have to go on blind faith assuming the property to the northeast will be approved for annexation in order to make this annexation contiguous. Unfortunately, at this time, this proposal does not meet the requirements for annexation so she will vote against it.

Strand pointed out that it is a condition of approval that Jensen Park Estates be approved first.

Esseks suggested that there should be pre-annexation agreements. It allows both the developer and other people around to know what is coming and to make the necessary adjustments.

Motion for conditional approval carried 7-1: Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, and Carlson voting 'yes'; Pearson voting 'no'; Larson absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 05068

ACTION BY PLANNING COMMISSION:

October 12, 2005

Strand moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Carroll and carried 7-1: Carroll, Esseks, Krieser, Sunderman, Taylor, Strand, and Carlson voting 'yes'; Pearson voting 'no'; Larson absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 4:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 26, 2005.